

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 357 Registration of Farm Labor Contractors and Employees  
**SPONSOR(S):** Insurance, Business & Financial Affairs Policy Committee, McKeel  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1150

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Agriculture & Natural Resources Policy Committee	13 Y, 0 N	Lowrance	Reese
2)	Insurance, Business & Financial Affairs Policy Committee	12 Y, 0 N, As CS	Lowrance	Cooper
3)	General Government Policy Council			
4)				
5)				

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**SUMMARY ANALYSIS**

A farm labor contractor is any person who recruits, transports, supplies, or hires one or more farm workers to work for, or under the direction, supervision, or control of a third person, or directs, supervises, or controls the work.

The Migrant and Seasonal Agricultural Worker Protection Act requires a farm labor contractor to obtain a federal certificate of registration from the United States Department of Labor. In addition, section 450.30, F.S., requires farm labor contractors to obtain a state certificate of registration from the Florida Department of Business and Professional Regulation (DBPR). Under current law, a farm labor contractor will not be granted a state certificate of registration without obtaining and holding a valid federal certificate of registration.

The bill states that if a farm labor contractor's federal certificate expires, the DBPR will renew the state certificate of registration if such a person files a timely application for renewal of the federal certificate. Subsequently, the bill defines "timely application for renewal." However, the DBPR shall suspend, revoke, or refuse to issue or renew a certificate of registration upon receipt that the U.S. Secretary of Labor has suspended, revoked, or refused to issue or renew the farm labor contractor's federal certificate.

The bill appears to have no fiscal impact on local government. According to the DBPR, the department will be required to track and revoke certificates that are not approved at the federal level, but the anticipated increase in workload can be addressed within existing resources.

The effective date of this act is July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

A farm labor contractor is any person who recruits, transports into or within the state, supplies, or hires at any one time in any calendar year one or more farm workers to work for, or under the direction, supervision, or control of a third person, or directs, supervises, or controls the work.<sup>1</sup>

The Migrant and Seasonal Agricultural Worker Protection Act of 1983<sup>2</sup> requires a farm labor contractor to obtain a federal certificate of registration issued pursuant to the Act from the United States Department of Labor.<sup>3</sup> No person shall engage in any farm labor contracting activity unless such person has a certificate of registration from the Secretary of Labor.<sup>4</sup>

Registration under the Act is required whether or not licensing or registration is required under state law.<sup>5</sup> Under the U.S. Code, an initial certificate of registration shall expire twelve months after issuance.<sup>6</sup> However, a certificate can be extended by filing an application for renewal with the Secretary at least 30 days prior to its expiration date.<sup>7</sup> The farm labor contractor will maintain the authority to operate as if under a valid federal certificate until the renewal application has been finally determined by the Secretary.<sup>8</sup>

Section 450.271, F.S., provides that the Florida Department of Business and Professional Regulation (DBPR) may enter into agreements with the Secretary of Labor of the United States to authorize the DBPR to administer the Act within the state.

The DBPR requires farm labor contractors to be registered with the DBPR.<sup>9</sup> The DBPR has the authority to issue, revoke, suspend and refuse to issue or renew a certificate of registration if the farm labor contractor does not hold a valid federal certificate of registration as a farm labor contractor.<sup>10</sup>

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<sup>1</sup> Section 450.28(1), F.S.

<sup>2</sup> 29 U.S.C. §1801 (1983)

<sup>3</sup> 29 U.S.C. §1811(a)

<sup>4</sup> *Id.*

<sup>5</sup> 29 C.F.R. 500.46

<sup>6</sup> 29 U.S.C. §1814(b)(1)

<sup>7</sup> 29 U.S.C. §1814(b)(1)(B)

<sup>8</sup> *Id.*

<sup>9</sup> Section 450.30, F.S.

## Effect of Bill

The bill provides that if a farm labor contractor's federal certificate expires, the DBPR will renew the state certificate of registration if such a person files a timely application for renewal of his/her federal certificate with the U.S. Department of Labor.

The bill defines "timely application for renewal" to indicate that a farm labor contractor must file an application for a renewal of his federal certificate of registration at least 30 days prior to his existing certificate's expiration date. The filing of a timely application will allow the farm labor contractor to continue to operate under his state certificate while his federal application is being processed.

However, the DBPR must suspend, revoke, or refuse to issue or renew a contractor's state certificate of registration once the DBPR receives the final order that the U.S. Secretary of Labor has suspended, revoked, or refused to issue or renew the farm labor contractor's federal certificate.

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 450.28, F.S., to define timely application for renewal.

**Section 2:** Amends s. 450.31, F.S., to permit renewal of a state certificate of registration for farm labor contractors whose federal certificates have expired, under certain circumstances, and to require the DBPR to suspend, revoke, or refuse to issue or renew certificates of registration under certain circumstances.

**Section 3:** Amends s. 316.003, F.S., to correct a cross-reference

**Section 4:** Amends s. 450.34, F.S. to correct a cross-reference.

**Section 5:** Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

See *Fiscal Comments*

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

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<sup>10</sup> Section 450.31, F.S.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The farm labor contractors that would, under current law, be required to cease contracting operations during the processing of their federal certificate renewal will be able to continue working under their state certificate until the Department of Labor makes a decision regarding the federal renewal.

**D. FISCAL COMMENTS:**

According to the Department of Business and Professional Regulation, the department will be required to track and revoke certificates that are not approved at the federal level, but the anticipated increase in workload can be addressed within existing resources.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

**2. Other:**

None

**B. RULE-MAKING AUTHORITY:**

None

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 25, 2010, the Insurance, Business, & Financial Affairs Policy Committee took up the bill, adopted two amendments, and passed the bill as a Committee Substitute by a vote of 12-0. The CS defines "timely application for renewal" for the purpose of allowing a farm labor contractor to continue to operate and clarifies the action required by the U.S. State Department of Labor in order for the department to adversely affect a certificate of registration.